

of any patent granted on the present application which would extend beyond the expiration date of the full statutory term, as shortened by any Terminal Disclaimer filed prior to grant, of the earliest to expire of U.S. Patents Nos. 6,375,685 and 5,885,303. The filing of a Terminal Disclaimer simply serves the statutory function of removing the rejection of double patenting and raises neither presumption nor estoppel on the merits of the rejection, *Quad Environmental Technologies v. Union Sanitary District*, 20 U.S.P.Q.2d 1392 (Fed. Cir. 1991). It is therefore submitted that the rejections under the judicially created doctrine of obviousness-type double patenting have been overcome. Reconsideration is respectfully requested.

Claims 21-23 and 25-30 were rejected under 35 U.S.C. §103(a) as being unpatentable over the Hendrix et al U.S. Patent No. 4,530,874. The Examiner asserted that Hendrix et al teach fabrics with a glossy smooth appearance and enhanced hand wherein silicone polymers may be used in the finishing composition and crosslinked with a crosslinking agent such as formaldehyde. The Examiner asserted it would have been obvious to use such a cross-linked silicone polymer in the fabric treating compositions of Hendrix et al.

However, as will be set forth in detail below, Applicants submit that the methods for treating textile fabric and the methods of decreasing shine due to pressing exhibited by fabrics comprising rayon fibers, as defined by claims 21-23 and 25-30 are nonobvious over and patentably distinguishable from the teachings of Hendrix et al. Accordingly, this rejection is traversed and reconsideration is respectfully requested.

More particularly, as defined by claims 21 and 23, the invention is directed to processes for treating textile fabric with formaldehyde to enhance at least one property of the fabric. The processes comprise treating a fabric containing fibers selected from the group consisting of cellulosic fibers and protein fibers (claim 21) or a fabric comprising rayon fibers (claim 23) with a composition comprising formaldehyde, and grafting a silicone elastomer

onto the fibers. The fabric is unresinated. In the process of claim 23, the fabric exhibits decreased shine due to pressing.

According to claim 25, the invention is directed to methods of decreasing shine due to pressing exhibited by fabrics comprising rayon fibers. The methods comprise the steps of (a) cross-linking the rayon fibers in a fabric with formaldehyde, and (b) providing the fabric with a silicone elastomer.

Hendrix et al disclose a process for producing chintz fabric exhibiting a glossy smooth appearance. Hendrix et al teach that a finishing composition is applied to the fabric, the fabric is dried without curing, and the dried fabric is calendered with a heated calendar roll to form a smooth glossy surface. The finishing composition contains a silicone polymer, a catalyst and a cross-linking agent, various examples of which are disclosed and include formaldehyde and aminoplast resins. The aminoplast resins are disclosed as especially suitable (column 5, lines 56-59) and are employed in all of the examples of Hendrix et al. In contrast, as noted above, the processes of claims 21 and 23 employ fabric which is unresinated. Applicant finds no teaching or suggestion by Hendrix et al of processes for treating fabrics wherein the fabric is unresinated.

In order to render a claimed invention obvious, the prior art must enable one skilled in the art to make and use the claimed invention, *Motorola, Inc. v. Interdigital Tech. Corp.*, 43 U.S.P.Q.2d 1481, 1489 (Fed. Cir. 1997). The mere listing of formaldehyde as one of numerous cross-linking agents does not, with the remainder of the Hendrix et al teachings employing aminoplast resins, provide an enabling disclosure of the processes of claims 21 and 23 and does not place the processes of these claims in the possession of the public. Thus, Hendrix et al do not render the processes of claims 21 and 23, or claim 22 dependent on claim 21, obvious.

Similarly, Applicant finds no teaching or suggestion by Hendrix et al of methods of decreasing shine due to pressing exhibited by fabrics comprising rayon fibers, as recited in claim 25. In fact, while Hendrix et al broadly disclose that their method may be employed on fabrics formed at least partially of cellulose fibers such as cotton or rayon (column 3, lines 26-28), Applicant finds no specific teaching by Hendrix et al relating to a treated rayon fabric, as the exemplary teachings of Hendrix et al are directed to polyester/cotton blends. Importantly, Applicant finds no teaching or suggestion by Hendrix et al relating to a method of decreasing shine due to pressing exhibited by fabrics comprising rayon fibers. To the contrary, it is an objective of Hendrix et al to provide fabrics which exhibit increased shine. For example, at column 7, lines 58-60, Hendrix et al indicate that one of their exemplary polyester/cotton fabrics exhibited more shine than a control fabric. It is error to find obviousness where references diverge from and teach away from the invention at hand, *In re Fine*, 5 U.S.P.Q.2d 1596, 1599 (Fed. Cir. 1988). As Hendrix et al teach away from the methods of claim 25, Hendrix et al do not render claim 25, or claims 26-30 dependent thereon obvious.

It is therefore submitted that the methods and processes defined by claims 21-23 and 25-30 are nonobvious over and patentably distinguishable from Hendrix et al, whereby the rejection under 35 U.S.C. §103 based on Hendrix et al has been overcome. Reconsideration is respectfully requested.

Finally, claims 21-23 and 25-30 were rejected under 35 U.S.C. §103(a) as being unpatentable over the Alberts et al U.S. Patent No. 4,464,506. The Examiner asserted that Alberts et al teach organopolysiloxane finishing agents for fabrics wherein polymerization of the organopolysiloxanes may be started with redox initiators such as formaldehyde. The Examiner asserted it would have been obvious to use formaldehyde to initiate the polymerization of organopolysiloxane finishing agents.

However, as will be set forth in detail below, Applicants submit that the processes for treating textile fabric and the methods of decreasing shine due to pressing exhibited by fabrics comprising rayon fibers defined by claims 21-23 and 25-30 are nonobvious over and patentably distinguishable from the teachings of Alberts et al. Accordingly, this rejection is traversed and reconsideration is respectfully requested.

The processes for treating a textile fabric as defined by claims 21 and 23 and the methods of decreasing shine due to pressing exhibited by fabrics comprising rayon fibers as defined by claim 25 are discussed in detail above. These processes and methods are not rendered obvious by Alberts et al.

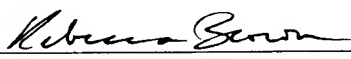
That is, Alberts et al teach a polymer dispersion suitable for finishing textiles. The dispersion comprises water, a dispersing auxiliary and a polymeric product. The polymeric product employed in the dispersion is produced by subjecting an organopolysiloxane containing vinyl groups, an organopolysiloxane containing Si-H groups, and a polymerizable vinyl monomer to free radical polymerization. As noted by the Examiner, Alberts et al disclose at column 4 that a redox initiator which may be used to start polymerization may comprise, inter alia, formaldehyde. However, Applicants find no teaching or suggestion by Alberts et al relating to the processes as defined in claims 21 or 23 wherein a fabric is treated with a composition comprising formaldehyde or a method as recited in claim 25 wherein rayon fabrics in a fabric are cross-linked with formaldehyde. To the contrary, one skilled in the art will appreciate that the formaldehyde employed as a redox initiator in the siloxane polymerization will be substantially consumed therein and that the dispersion containing the polymeric product will not provide formaldehyde for treatment of fabric or crosslinking of rayon fibers contained in fabric.

Moreover, as Applicants find no teaching or suggestion by Alberts et al for treating fabric with formaldehyde or for crosslinking rayon fibers with formaldehyde, it would not be

obvious for one of ordinary skill in the art to modify the disclosed polymer dispersion or the textile finishing process of Alberts et al to include a step of treating the fabric with formaldehyde as required by the processes of claims 21 and 23 or for crosslinking rayon fibers in a fabric, particularly to reduce shine due to pressing exhibited by fabrics comprising rayon fibers, as recited in claim 25. In view of these deficiencies in the teachings of Alberts et al, Alberts et al do not enable one skilled in the art to make and use the presently claimed processes or methods and therefore do not render the presently claimed processes or methods obvious. It is therefore submitted that the rejection of claims 21-23 and 25-30 under 35 U.S.C. §103 based on Alberts et al has been overcome. Reconsideration is respectfully requested.

It is believed that the above represents a complete response to the rejections under 35 U.S.C. §103 and under the judicially created doctrine of obviousness-type double patenting, and places the present application in condition for allowance. Reconsideration and an early allowance are requested.

Respectfully submitted,

  
Rebecca A. Brown, Reg. No. 47,452  
DINSMORE & SHOHL LLP  
1900 Chemed Center  
255 E. Fifth Street  
Cincinnati, Ohio 45202  
(513) 977-8679